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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Request of Limited Modification of)
LATA Boundaries to Provide ELCS)
Between the Gatesville)
Exchange and the Temple)
Exchange.)

96-159

DOCKET FILE COPY ORIGINAL

PETITION

I. INTRODUCTION

Southwestern Bell Telephone Company (SWBT), pursuant to Section 3(25) of the Communications Act of 1934, as amended,¹ and in accordance with the guidelines established in the Commission's Memorandum Opinion and Order (MO&O) released July 15, 1997 in CC Docket No. 96-159,² hereby makes application for a limited modification of LATA boundaries to provide ELCS between the Gatesville exchange and the Temple exchange.

II. SUPPORTING INFORMATION

As prescribed in paragraph 23 of the aforementioned Commission MO&O, SWBT provides the following information in support of its application:

1. Type of service: Flat-rate, non-optional Expanded Local Calling (ELC);
2. Direction of service: Two-way;

¹ The Communications Act of 1934, as amended, 47 U.S.C. *et al.*

² Memorandum Opinion and Order, Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service at Various Locations, CC Docket No. 96-159, released July 15, 1997. By way of this MO&O the Commission adopted a format for and criteria under which such petitions would be granted. The format and criteria are detailed in paragraphs 23 and 24.

3. Exchanges involved: Gatesville in the Dallas, TX LATA and Temple in the Waco, TX LATA;
4. Name of carriers: Gatesville of Sprint/United/Centel Telephone and Temple of Southwestern Bell Telephone;
5. State commission approval(s): See Attachment A;
6. Number of access lines or customers: The Gatesville exchange has 6,110 access lines, and the Temple exchange has 34,589 access lines;
7. Usage data: Usage data is not available to Southwestern Bell Telephone. SWBT does not currently carry traffic across LATA boundaries;
8. Poll results: Percentage of Gatesville customers returning ballots who voted in favor of ELC to Temple: 83.94. Where SWBT is the petitioning exchange, there is no proposed rate increase. Where SWBT is not the petitioning exchange, SWBT does not have information as to any proposed rate increase.
9. Community of interest statement: The Public Utility Commission of Texas includes a Community of Interest Finding in their Order(s). See Attachment A.
10. Map: See Attachment B; and,
11. Other pertinent information: None

III. *PRIMA FACIE* SHOWING

SWBT believes that it has made a *prima facie* case supporting grant of the proposed modification because the instant ELCS petition (1) has been approved by the state commission; (2) proposes only traditional local service (i.e., flat-rate, non-optional ELCS); (3) indicates that the state commission found a sufficient community of interest to warrant such service; (4) documents this community of interest through such evidence as poll results and descriptions of the communities involved; and, (5) involves a limited number of customers or

access lines. These requirements for a *prima facie* case are detailed in the aforementioned Commission MO&O paragraph 24.

IV. CONCLUSION

Wherefore, SWBT request that the Commission approve its application for a limited modification of LATA boundaries to provide ELCS between the Gatesville exchange and the Temple exchange.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

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AUGUST 29, 1997

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mmc/jm/clk

ATTACHMENT A

PROJECT NO. 16670

SHEET 1

PETITION FOR EXPANDED LOCAL
CALLING SERVICE FROM THE
GATESVILLE EXCHANGE TO THE
EXCHANGE OF COPPERAS COVE,
FORT HOOD AND KILLEEN

§
§
§
§
§

PUBLIC UTILITY COMMISSION
OF TEXAS

ORDER NO. 2
ORDER OF SEVERANCE

DOCKET NO. 16991

PETITION FOR EXPANDED LOCAL
CALLING SERVICE FROM THE
GATESVILLE EXCHANGE TO THE
EXCHANGE OF TEMPLE

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§
§
§

PUBLIC UTILITY COMMISSION
OF TEXAS

ORDER NO. 1
ESTABLISHING DOCKET
AND ABATING

On January 30, 1997, the General Counsel filed Commission Staff's recommendation that the percentage of the total responses during balloting for this project was greater than the required 70 percent for all of the petitioned exchanges.

The Commission Staff recommends that, although the Temple exchange passed the balloting requirements, it should be severed from this project and docketed as a separate proceeding. The petitioning Gatesville exchange is in the Dallas Local Access and Transport Area (LATA) while the Temple exchange is in the Waco LATA, and served by Southwestern Bell Telephone Company, (SWB). SWB would be violating the terms of a federal court order¹ if it provides Expanded Local

¹United States v. GTE Corp., 1985-Trade Cas (CCH) § 66,355 (D.d.c.1985), and United States v. AT&T, Supp. 131 (D.D.c. 1982), aff'd. Sub. Nom. Maryland v. United States, 103 S. Ct. 1240 (1983).

Calling Service (ELCS) to the Temple exchange without first acquiring a waiver from the Federal Communications Commission.

In order to allow SWB an opportunity to seek a waiver from the federal court so that it may provide ELCS to the Temple exchange, this portion of the project is severed, docketed and abated. It shall be captioned *Petition for Expanded Local Calling Service from the Gatesville Exchange to the Temple Exchange, Docket No. 16991*. The record in Docket No. 16991 will consist of the following items: Petition, Day 20 Recommendation, Geographic Proximity Recommendation, Day 40 Order, Balloting Results Recommendation, and Proof of Publication. Copies of the record in Docket No. 16991 will not be attached to this Order. A copy will be provided to Central Records. The parties will be responsible for making/copying the record in Docket No. 16991 for their files.

In the future, Project No. 16670 will be captioned *Petition for Expanded Local Calling Service from the Gatesville Exchange to the Exchanges of Copperas Cove, Fort Hood and Killeen*.

SIGNED AT AUSTIN, TEXAS the 10th day of February 1997.

PUBLIC UTILITY COMMISSION OF TEXAS



CHAD COWAN
HEARINGS EXAMINER

97 FEB 11 11 03 26

DOCKET NO. 16991

PETITION FOR EXPANDED LOCAL
CALLING SERVICE FROM THE
GATESVILLE EXCHANGE TO THE
EXCHANGE OF TEMPLE

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PUBLIC UTILITY COMMISSION
OF TEXAS

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PUBLIC UTILITY COMMISSION
FILING CLERK

INTERIM ORDER

Findings of Fact

1. On November 25, 1996, subscribers of the Gatesville Exchange filed a petition for Expanded Local Calling Service (ELCS) requesting non-optional, two-way, flat rate calling to the exchange of Temple.
2. The processes for petitioning and balloting included notice that the service would be for a flat monthly fee of up to \$3.50 per residential line and \$7.00 per business line on a non-optional basis.
3. The Gatesville Exchange is in the Dallas Local Access and Transport Area (LATA) and is served by Sprint/United Telephone Company of Texas, Inc. (United). The petitioned exchange of Temple is in the Waco LATA and is served by Southwestern Bell Telephone Company (SWBT).
4. An affirmative vote of 83.94 percent of Gatesville Exchange subscribers responding to the ballot favored expanding the local calling scope to include the Temple Exchange.
5. On July 15, 1997, the Federal Communications Commission (FCC) issued an order, *In the Matter of Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations*, CC Docket No. 96-159, FCC 97-244, (rel. July 15, 1997) (*Memorandum Opinion and Order*), providing a procedure for requesting a limited LATA boundary modification.

6. The central office of the petitioned exchange of Temple is 33.03 miles from the petitioning exchange central office utilizing vertical and horizontal (V&H) geographic coordinates of the central switching offices pursuant to 16 T.A.C. §23.49(c)(3)(B)(ii).
7. In addition to satisfying the geographic requirement of the Texas Public Utility Commission rules that the central switching office for a petitioned exchange be within 50 miles of the petitioning exchange, an affidavit by the City Manager for the City of Gatesville attesting to the existence of a community of interest between the petitioning and petitioned exchange was filed on November 25, 1996 for the petitioned exchange of Temple.
8. The Temple Exchange is the location of a hospital with emergency services, and is a business center for Gatesville Exchange subscribers.
9. Based on the statement referenced in Finding of Fact No. 7, there is a community of interest between the petitioning Gatesville Exchange and the petitioned exchange of Temple.

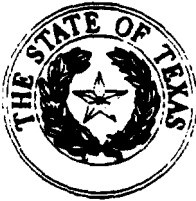
Ordering Paragraphs

In accordance with the findings of fact, the Commission issues the following Interim Order:

1. This proceeding is unabated.
2. Petitioners from the Gatesville Exchange have shown a community of interest with the Temple exchange.

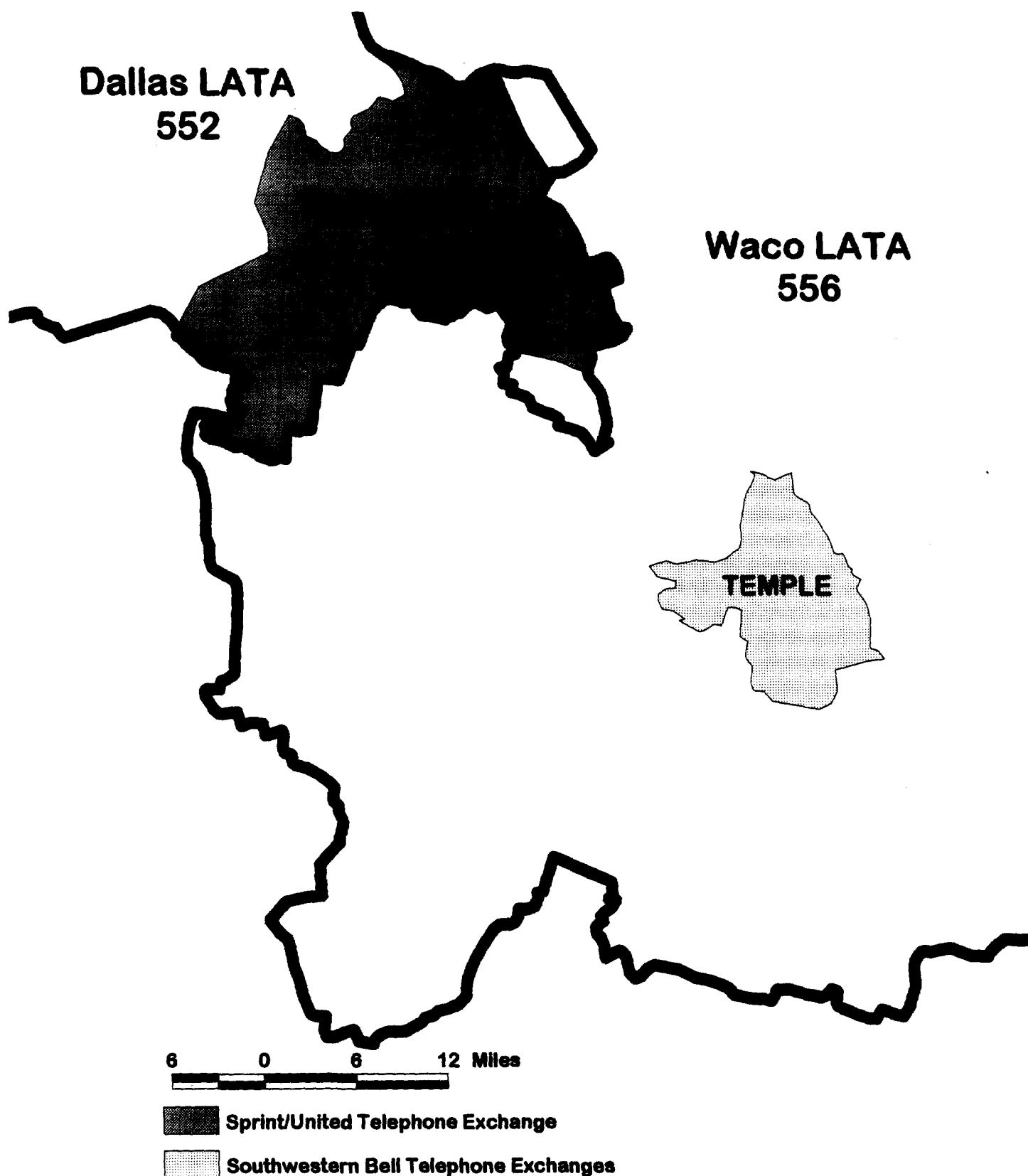
3. Within thirty (30) days of the effective date of this Interim Order, SWBT is directed to file a request for a limited modification of the LATA boundary in accordance with the procedures outlined in the FCC order. *In the Matter of Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations*, CC Docket No. 96-159, FCC 97-244, (rel. July 15, 1997) (*Memorandum Opinion and Order*), ¶¶ 23 & 24.

4. Within ten (10) days of the receipt of an Order or Notice from the FCC relating to this petition, SWBT is directed to file such Order or Notice in this project.



ISSUED BY THE OFFICE OF POLICY DEVELOPMENT
ON BEHALF OF THE PUBLIC UTILITY COMMISSION OF TEXAS
ON THE 5th DAY OF AUGUST, 1997

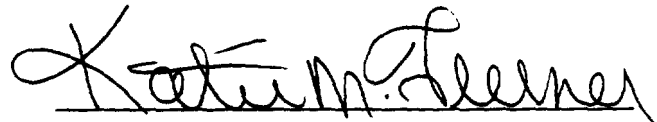
Gatesville To Temple



This document was produced by the Texas Exchange Carrier Relations organization of Southwestern Bell Telephone Company on 8/4/97, based on the best information it could obtain from other sources at that time. In addition, it is the Telephone Company's understanding that the data underlying the creation of this document may be subject to change. Southwestern Bell makes no representation as to the accuracy of the information provided to it and used to create this document.

CERTIFICATE OF SERVICE

I, Katie M. Turner, hereby certify that the foregoing, "PETITION OF SOUTHWESTERN BELL TELEPHONE COMPANY" in Docket No. 96-159 has been filed this 29th day of August, 1997 to the Parties of Record.

A handwritten signature in cursive script, reading "Katie M. Turner", written over a horizontal line.

Katie M. Turner

August 29, 1997

Texas Public Utility Commission
1701 North Congress
Austin, Texas 78701